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14 TETSUYA NAKAMURA

15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

18 TETSUYA NAKAMURA,
19 Plaintiff,
20 v.
21 SUNDAY GROUP INCORPORATED, *et al.*,
22 Defendants.

23 SUNDAY GROUP INCORPORATED AND
24 TOSHIKI (TODD) MITSUISHI,
25 Counterclaimants,
26 v.
27 TETSUYA NAKAMURA,
28 Counterdefendant.

Case No.: 2:22-cv-01324-MMD-EJY

**DECLARATION OF CASEY O'NEILL
IN OPPOSITION TO DEFENDANTS'
MOTION TO COMPEL APPEARANCE
AT A DEPOSITION**

1 I, Casey O'Neill, hereby declare as follows pursuant to 28 U.S.C. § 1746:

2 1. I am admitted *pro hac vice* to this Court, and am Of Counsel at Fenwick & West
3 LLP, counsel for Plaintiff and Counterdefendant Tetsuya Nakamura ("Dr. Nakamura").

4 2. I submit this declaration in support of Dr. Nakamura's memorandum in
5 opposition to Defendants' Motion to Compel Appearance at a Deposition. ECF No. 88.

6 3. Dr. Nakamura served requests for production ("RFPs") on each of the named
7 defendants, Sunday Group Incorporated ("Sunday Group"), SGI Trust, Toshiaki (Todd) Mitsuishi,
8 and James Pack (collectively, "Defendants"), on September 8, 2023.

9 4. Defendants served responses and objections to the RFPs on October 23, 2023.

10 5. Counsel for the parties met and conferred regarding the RFPs on November 29,
11 2023.

12 6. Defendants produced 364 pages of documents in response to the RFPs on April
13 15, 2024. Defendants produced 1024 pages of documents in response to the RFPs on May 14,
14 2024. Defendants produced 21,938 pages of documents in response to the RFPs on June 14,
15 2024.

16 7. A portion of Defendants' June 14, 2024 production was defective, in that
17 apparently responsive documents therein were not viewable. Defendants had inserted slip sheets
18 in place of at least some responsive documents. Counsel for the parties discussed this issue, and
19 to address it, Defendants made supplemental productions on July 29, 2024 and August 15, 2024.

20 8. On July 30, 2024, counsel for the parties met and conferred regarding the status of
21 document discovery and regarding prospective deposition practice. In that discussion, the
22 undersigned identified certain apparently missing document sources in Defendants' productions.
23 Defendants' counsel confirmed on the call their intention to take Dr. Nakamura's deposition
24 before any other depositions occur in the case.

25 9. The undersigned summarized the July 30, 2024 meet-and-confer discussion by
26 letter to Defendants' counsel dated August 20, 2024. A true and correct copy of that August 20
27 letter is attached hereto as **Exhibit A**. Defendants have yet to respond to the August 20 letter
28 with the requested confirmation that Defendants have preserved and collected and will produce

1 any missing documents and have not indicated when additional document productions will
2 occur.

3 10. The undersigned sent an additional letter to Defendants' counsel on September 3,
4 2024, following up regarding missing document sources and other perceived deficiencies in
5 Defendants' productions. A true and correct copy of that September 3 letter is attached hereto as
6 **Exhibit B.** Defendants have yet to respond to the September 3 letter or make any further
7 document productions.

8 I declare under penalty of perjury under the laws of the United States that the foregoing
9 statements are true and correct.

10 Executed this 4th day of September 2024, at San Francisco, California.

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12 /s/Casey O'Neill
13 Casey O'Neill
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FENWICK & WEST LLP
ATTORNEYS AT LAW